

REMARKS

The Amendments

The claims are amended to remove the solvate terms and clarify the subjects treated in claim 2. These amendments are made to address the 35 U.S.C. §112 rejections as discussed below. New claim 23 is supported by the disclosure at page 4, lines 27-29, for example. New claim 24 is supported by the disclosure at page 8, line 18, to page 9, line 3, for example.

Applicants reserve the right to file one or more continuing and/or divisional applications directed to any subject matter disclosed in the application which has been canceled by any of the above amendments.

The First Rejection under 35 U.S.C. §112, first paragraph

The rejection of claims 2 and 3 under 35 U.S.C. §112, first paragraph, is respectfully traversed. It is believed that the clarifying amendment to claim 2 renders the rejection moot. Since the claim now recites that the method is applied to a human or animal having such an impairment, it is believed to be clear that the methods are for treating an existing impairment. Regarding the distinction between prophylaxis and treatment, applicants previous comments were made in recognition of the unique nature of the conditions treated. As is well known and documented in this art, determining whether a subject has an impairment of perception, concentration, cognitive processes, learning and/or memory (e.g., due to Alzheimer's) necessarily requires a subjective approach. The tests for cognitive abilities are subjective and vary. Thus, there is not a fine line defining prophylaxis from treatment. It should be clear now, however, that the claims define treating a subject who has been determined to have an impairment. Thus, the claims are not directed to prophylaxis in the sense that that term is interpreted to mean providing an absolute cure. It is believed that rejections of prophylaxis or prevention method claims for lack of enablement or description are generally alleged on the basis of a failure to support an absolute cure or prevention for the condition. Particularly with the claims as currently amended, the treatment term here should not be interpreted as encompassing such an absolute cure. Thus,

the rejection under 35 U.S.C. §112, first paragraph, should not be applied.

The Second Rejection under 35 U.S.C. §112, first paragraph

The rejection of claims 1-3 and 10-22 is rendered moot by the cancellation of the solvate terms.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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Attorney Docket No.: 01-2114

Date: October 19, 2009

JAS:dap